

son should be tried for treason or misprision of treason against the State, unless the indictment should be found within three years after the offence committed. These Acts, however, have not been incorporated in the Code, but the same period of limitation is contained in 7 & 8 W. 3, c. 3, s. 5. As to treason against the United States, see Const. U. S. Art. 3, sec. 3, Act April 30, 1790.²

² See now Act of Congress 1909, ch. 321, (Supp. U. S. Comp. Stats. Tit. 70, ch. 1, secs. 1-3.)

CAP. III.

No Indictor shall be put upon the Inquest of the Party indicted.

Item, it is accorded, That Auxint acorde est qe nul en no Indictor shall be put in ditour soit mys en enquest sur Inquests upon Deliverance of la deliverance del endite de the Indictes of Felonies or trespas ou de felonie sil soit Trespass, if he be challenged chalange par tiele cause par for that same cause by him celui qest endite. which is so indicted.

Bro. Chall. 42, 101, 120, 142, 166.

It appears from Co. Litt. 157 b. that this is a principal cause of challenge *propter affectum*. And it has been adjudged a good exception, not only on the trial of the same indictment, but also on the trial of another indictment or action, wherein the matter found in such former indictment is either directly in issue or happens to be material. It appears that the rule was established in the reign of E. 1. By indictors were meant not only the jurors who presented, but those who were sworn to inform them or who, as it is termed now, preferred the indictment. To enable the defendant to make these challenges it was usual to put the names of those indictors on *the indictment, and it was a good exception to the in- 172 dictment that it was without them. The challenge against those preferring the indictment depended on the principle, that an accuser was a volunteer and sort of party, and therefore not entitled to the credit of an indifferent witness, who appeared and delivered his evidence under legal compulsion. Later Statutes, 1 & 2 P. & M. c. 13 and 2 & 3 P. & M. c. 10, by providing a method of compelling persons to give evidence against the party at the jail-delivery, i. e. both on the indictment and on the trial, abolished the distinction between an accuser and witness, and consequently took away this challenge. But a vestige of the old law still remains in the practice of endorsing on the indictment the names of the witnesses examined before the grand jury; and the challenge still remains as against one of the grand jury; see Bac. Abr. Juries, E. 5.